## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION NO. 5:06-CV-338-D

DAVID DARRYLL COONER,	)	
D1 1 4 60	)	
Plaintiff,	)	
v.	)	ORDER
	)	
TOWN OF CLAYTON, a Municipal	)	
Corporation in North Carolina,	)	
	)	
Defendant.	)	

Pursuant to Rule 37 of the Federal Rules of Civil Procedure, defendant filed a Motion for Sanctions [D.E. 38]. Plaintiff failed to respond.

Plaintiff has repeatedly failed to participate in prosecuting this case. Specifically, plaintiff failed to cooperate in scheduling plaintiff's deposition and failed to appear for plaintiff's deposition on November 15, 2007, after having been properly served with a notice of deposition. See Def.'s Mot. for Sanctions; Def.'s Mem. in Supp. of Mot. for Sanctions 2–3.

The court finds that plaintiff has failed to offer any justification for these repeated discovery abuses. The discovery abuses prejudiced defendant and were done in bad faith. Good cause exists for granting the defendant's Motion for Sanctions. See, e.g., Mut. Fed. Sav. & Loan Ass'n v. Richards & Assocs., Inc., 872 F.2d 88, 92 (4th Cir. 1989).

Accordingly, defendant's Motion for Sanctions is GRANTED. It is further ORDERED that plaintiff shall pay to defendant, in care of counsel for defendant, Norward P. Blanchard, the reasonable expenses and attorneys' fees for plaintiff's failure to attend his deposition and the necessity of obtaining this order, including, but not limited to, all such expenses and fees incurred

in relation to the deposition, and to the drafting and filing of defendant's Motion for Sanctions. The

court determines the amount to be \$500. See Fed. R. Civ. P. 37. Plaintiff shall pay the \$500 not

later than January 25, 2008. Moreover, plaintiff is WARNED that the failure to pay this sanction

in accordance with this order could result in further sanctions, up to and including dismissal of this

action. See, e.g., Anderson v. Found. for Advancement, Educ., & Employment of Am. Indians,

155 F.3d 500, 504–05 (4th Cir. 1998); Hathcock v. Navistar Int'l Transp. Corp., 53 F.3d 36, 40 (4th

Cir. 1995).

SO ORDERED. This 11 day of January 2008.

AMES C. DEVER III

United States District Judge